

IC 28-11-5

Chapter 5. Department Oversight of Organization of a Financial Institution

IC 28-11-5-1

Application of chapter

Sec. 1. This chapter applies to the following financial institutions:

- (1) A bank.
- (2) A savings association.
- (3) A credit union.
- (4) A savings bank.
- (5) A trust company.
- (6) A corporate fiduciary.

As added by P.L.42-1993, SEC.91. Amended by P.L.262-1995, SEC.78; P.L.79-1998, SEC.86.

IC 28-11-5-2

Approval of articles of incorporation and organization and establishment of financial institutions

Sec. 2. (a) A financial institution may not be organized, incorporated, or engage in business in Indiana until the department has approved the following:

- (1) The articles of incorporation of the proposed financial institution.
- (2) The organization and establishment of the financial institution in the city or town in which the incorporators propose to establish the financial institution.

(b) A person who violates this section commits a Class A misdemeanor.

As added by P.L.42-1993, SEC.91.

IC 28-11-5-3

Applications to establish financial institutions

Sec. 3. (a) A request to establish a financial institution must be set forth in an application:

- (1) prescribed by the department; and
- (2) containing the information required by the department.

(b) Within twenty (20) business days after receiving an application under this section, the department shall:

- (1) accept the application for processing;
 - (2) request additional information to complete the application;
- or
- (3) return the application if it is incomplete.

As added by P.L.42-1993, SEC.91. Amended by P.L.122-1994, SEC.111.

IC 28-11-5-4

Application approval procedures

Sec. 4. (a) Upon the acceptance of an application under section 3 of this chapter, the department shall investigate and consider all of

the following:

- (1) The financial standing and character of the incorporators, organizers, directors, principal shareholders, or controlling corporations.
 - (2) The character, qualifications, and experience of the officers and directors of the proposed financial institution.
 - (3) The future earnings prospects for the proposed financial institution.
 - (4) The adequacy of the financial institution's proposed capital, if the financial institution is to be a bank, trust company, corporate fiduciary, or savings bank.
- (b) The members of the department may disapprove the application if:
- (1) any of the factors listed in subsection (a) are determined to be unfavorable;
 - (2) any of the incorporators, directors, principal shareholders, or officers of the proposed financial institution have been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States; or
 - (3) the applicant has knowingly or intentionally submitted an application under this chapter that contains false information.
- (c) The applicant shall submit to the Indiana state police two (2) sets of fingerprints for each incorporator, director, principal shareholder, and officer, if requested by the department.
- As added by P.L.42-1993, SEC.91. Amended by P.L.122-1994, SEC.112; P.L.262-1995, SEC.79; P.L.192-1997, SEC.24.*

IC 28-11-5-4.5

Fingerprint and background checks

Sec. 4.5. (a) To provide additional information for the purposes of section 4 of this chapter, the state police department, at the request of the department, shall provide fingerprint and background checks on all incorporators, directors, principal shareholders, and officers of a proposed financial institution.

(b) If a disqualifying record is not identified by the state police department, the fingerprints submitted under section 4(c) of this chapter shall be forwarded to the Federal Bureau of Investigation for a national criminal history check.

(c) The department shall pay all expenses associated with investigations performed by the state police department or the Federal Bureau of Investigation as a result of an application filed under section 3 of this chapter.

As added by P.L.192-1997, SEC.25.

IC 28-11-5-5

Hearings on applications

Sec. 5. (a) The department may hold a hearing to determine whether to approve an application filed under section 3 of this chapter.

(b) A hearing may not be held until ten (10) days after the date of

the publication of the notice required by section 6 of this chapter.

(c) If the department holds a hearing under this section, the hearing must be held within ninety (90) days after the application is accepted by the department for processing.

As added by P.L.42-1993, SEC.91. Amended by P.L.122-1994, SEC.113.

IC 28-11-5-6

Notice of applications subject to hearings

Sec. 6. (a) If a public hearing is held under section 5 of this chapter, the applicant shall give notice of the application by publication one (1) time in a newspaper of general circulation in the city or town in which the applicant proposes to establish the financial institution. If a newspaper is not published in the city or town, the notice shall be published in one (1) newspaper of general circulation published in the county in which the city or town is located.

(b) The notice required by this section must state the following:

- (1) The fact that the application has been filed.
- (2) The names of the applicants.
- (3) The place where the applicants propose to establish the financial institution.
- (4) The date and place of the hearing.
- (5) Other facts the department considers relevant.

As added by P.L.42-1993, SEC.91.

IC 28-11-5-7

Hearing procedures

Sec. 7. (a) This section applies only if the department holds a hearing under section 5 of this chapter.

(b) At the time and place designated in the notice, any of the following may conduct the hearing:

- (1) All the members of the department.
- (2) Any number of the members.
- (3) The director of the department.
- (4) A deputy director of the department.
- (5) The supervisor in charge of the division of the department that would have jurisdiction of the financial institution, if it is established.

(c) Any person who is interested may appear and be heard, either in person or by the person's attorney.

(d) A report of the hearing, in the form and detail the department prescribes, shall be prepared and filed in the department.

As added by P.L.42-1993, SEC.91. Amended by P.L.122-1994, SEC.114.

IC 28-11-5-8

Approval or disapproval of applications

Sec. 8. Within a reasonable time after the application is accepted by the department for processing, but not more than one hundred twenty (120) days from the later of:

(1) the date on which the application is accepted by the department; or

(2) the date on which the hearing is held, if a hearing is held; the department shall either approve or disapprove the application.
As added by P.L.42-1993, SEC.91. Amended by P.L.122-1994, SEC.115.

IC 28-11-5-9

Payment of expenses

Sec. 9. (a) The applicants shall pay all expenses incurred by the department in performing its duty under this chapter.

(b) At the time of filing the application, the applicants shall deposit with the department the amount of money fixed by the department necessary to defray the expenses incurred by the department in implementing this chapter with respect to the application.

(c) The department shall return to the applicants any balance remaining after proceedings under this chapter are completed.

As added by P.L.42-1993, SEC.91.